

SECTION 9.6**ENVIRONMENTAL RESOURCES**

The Town of Montgomery includes a variety of natural unique and environmentally sensitive resources, including cultural and aesthetic resources, dependent upon human intervention for protection and preservation of these irreplaceable resources. Such resources include wetlands, rivers and streams, ponds and lakes, flood plain areas, steep slopes, ridgelines, ground water recharge areas (unconsolidated aquifers), prime agricultural soils, historic homesteads, cemeteries, stonewalls, etc.

The study of potential impacts on such resources is paramount during the review of land use development applications. Although maps and other study data pertaining to these resources are available to assist the various town boards in their decision making process regarding site plans, special exception uses, variances, zone changes, subdivisions, building permits, SEQQR, etc., there is no substitute for site specific identification and impact evaluation. As such, zoning amendments should be developed to better define the types and level of study required of applicants to provide the town boards with the necessary information to render informed, content based, decisions and recommendations. Applicants and their design professionals must be aware of, guided by, and design to these criteria and constraints.

Zoning techniques such as establishment of resource-based regulation can be very effective in preserving natural resources. Supplementary land use limitations, restrictions and procedures are applied to development activities affecting properties which are threatened. Such properties can include whole zoning districts or include only parts of one or more districts. Natural resource protection regulations can effectively create a framework for the conservation and preservation of identified important land features or natural resources (i.e., waterfront locations, local business or hamlet areas, wetlands, aquifer resources, floodplains, steep slopes, scenic and historic resources, stonewalls, etc). Resource regulations can protect specific resources by adopting supplementary zoning and land use development provisions, in addition to the other applicable zoning provisions, aimed at protecting and preserving the particular land feature or environmental or cultural resource.

Among the most effective means of addressing and preventing uncontrolled alterations and losses to natural resources, is the development and enforcement of separate environmental protection regulations which regulate development and impact activities by protecting specific sensitive, unique or important resources (i.e., floodplains, wetlands, watershed areas, aquifer resources, tree removal, historic areas, steep slopes, greenways, stonewalls, etc). However, like Zoning and Land Subdivision Regulations, development activities cannot be completely prohibited and often the regulatory guidelines are too broad, allowing subjectivity and excessive discretion. Therefore, in order to maximize resource protection and to be most effective, such regulations need to be specific and less discretionary. Furthermore, increased or effective municipal enforcement is a key component in the success of such regulations.

NATURAL RESOURCE PROTECTION GOALS

- ❑ Carefully plan and limit development activities upon or which potentially will adversely diminish or impact open space and natural environmental resources, such as wetlands, watercourses, waterbodies, buffer areas, flood plains, steep slopes, unconsolidated aquifers, and unique and scenic vistas.
- ❑ Preserve open space and natural resources (and biodiversity) through acquisition of sensitive lands and development rights, and through adoption and enforcement of natural resource based ordinances and regulations.
- ❑ Preserve the banks and flood plains of major rivers and streams as well as the ridge along the Crawford-Montgomery Town boundary.
- ❑ Expand linear park efforts along the Wallkill River corridor by preserving and protecting the continuity and integrity of its tributaries, particularly the Tin Brook, from future or expanded development activities; limit or prohibit crossings and further fragmentation of tributaries with the watershed area associated with the Wallkill River.
- ❑ Preserve and enhance existing aesthetic, historic and cultural resources.

RECOMMENDATIONS FOR ACTION**☆ Wetlands and Watercourses Protection**

During the review of land use development applications, applicants should be required to delineate and survey (map) area wetlands and watercourses (based on Federal wetland delineation criteria, which is also that utilized by the State in defining wetlands and watercourses). Regulations protecting or enhancing these resources and associated adjacent upland areas are recommended for consideration, which regulations should require avoidance of these resources, and mitigation for those determined to be unavoidable. ***Refer to the Surface Water and Wetlands Map below showing a composite of these resources within the Town and the pattern of connected habitat corridors they form.*** Ideally, regulations protecting wetlands, watercourses and upland areas buffering these important and irreplaceable resources is recommended. Unless adequately protected from uncontrolled and insensitive development activities, these resources and the important functions and habitat values they provide, especially water quality, will be irretrievably lost.

INSERT

SURFACE WATER AND WETLANDS MAP

Related amendments to the Town's land use regulations should be considered to require development provide appropriate separation from wetlands and/or State-regulated adjacent areas, and which provides options for alerting future homeowners to the fact that regulated resources are present on their property (i.e., notation on subdivision plat, deed language, etc).

☆ **Zoning Regulations**

A number of amendments to the Zoning Law are recommended to reduce impacts on open space, sensitive and unique natural resources, and agricultural lands. The Town's existing regulations should be reviewed in detail for development of increased protection measures and additional environmental land use regulations, such as a steep slope protections and ridge preservation measures, and inclusion of stormwater abatement provisions such as is currently included in the Town's existing Subdivision Regulations, should be considered to further protect sensitive natural resources.

Zoning amendments that require delineation of steep slopes (defined in the range of 25% or greater or 15% or greater), ridgelines, and hilltops (elevation high points) should be developed that require avoidance of these resources, and mitigation for those determined to be unavoidable. Consider regulations for clearing, grading, filling and excavating activities (to address actions not currently regulated by NYSDEC.) For example, NYSDEC regulates mining activities that remove over 750 cubic yards, or 1,000 tons, whichever is less, *within 12 successive calendar months*. Thus, one could remove almost that amount each year, without regulation. Clearly, the impact to the land would be essentially the same as that which would occur under auspices of a NYSDEC Permit, yet no environmental impact review or reclamation plan would be required. Therefore, a local ordinance or Mining Law should be developed and implemented. Any provisions proposed by the Town to address clearing, grading and filling should include the requirement for the restoration and/or reclamation of disturbed areas, in addition to determining what would be required to be addressed by such a plan.

Zoning regulations need to be implemented and enhanced to protect historic, cultural and aesthetic resources. Overlay districts and design guidelines are particularly well-suited for protecting these resources, given their varied locations. To maintain and enhance the Town's scenic qualities, zoning amendments that address abandoned/ dilapidated buildings need to be implemented along with language to preserve and protect existing stone walls. Potential visual impacts of temporary buildings can also be addressed with zoning amendments.

Expanded sign regulations addressing increased aesthetic issues should also be considered which include site specific provisions addressing location, size, type of signs permitted, prohibited or required, proper illumination, and appropriate design standards.

Expanded zoning regulations and/or new ordinances should also address property maintenance provisions, including but not limited to regulating junk yards, junk storage, litter control, sidewalk maintenance, and as noted above, unsafe and dilapidated buildings.

In addition, a Tree Ordinance regulating tree removal and the impacts associated therewith, through preservation, minimization and replanting mitigation, should be developed and implemented. Particular attention is recommended on restricting clear cutting and loss of community character along roadways and hedgerows.

★ *Aquifer Protection*

Aquifer resources should be protected to ensure quality drinking water and appropriate measures should be taken to ensure adequate maintenance of clean ground water recharge.

Major aquifer and aquifer recharge areas within the town should be identified and mapped as a future component addendum to this Plan. Once completed, the aquifer map should be compared by overlaying other aspects and features of the Town (e.g., land use, zoning, topography, etc) in order to assess the areas of greatest risk and need of protection, thereby identifying aquifer overlay protection zones. The next step would involve the preparation and adoption of corresponding regulations pertaining to development activities which have a potential impact on said resources.

★ *Surface Water Protection*

Rivers, streams and lakes should be protected through low density regulations and strict overlay buffer zones designed to limit land altering activities and damaging encroachments on these resources. Existing flood plain regulations and enforcement thereof should also be expanded and strengthened. *Refer to the Surface Water and Wetlands Map above showing a composite of these resources within the Town and the pattern of connected habitat corridors they form.* Also, limitations on development of new impervious surfaces should be evaluated for adoption as zoning and land subdivision amendments, as well as expansion and strengthening of current erosion and sedimentation control regulations and the enforcement thereof.

★ *Stormwater Treatment and Management*

Stormwater regulations and guidelines for stormwater controls should be developed along with additional measures to protect surface water quality in accordance with the requirements set forth by NYSDEC SPDES General Permit for Stormwater Discharges (i.e., the preparation of a Town Stormwater Management Program). Development of appropriate stormwater regulations and/or ordinance is recommended, which would require low impact development standards for stormwater treatment and management (i.e., soil amendment practices prevent compaction of soils, etc) and which would include provisions addressing construction staging, sequencing and construction monitoring requirements; specify enforcement agency; require retrofitting of existing basins; set forth requirements for specific uses (such as gas stations, warehousing, truck stops, parking lots, etc). Such regulations and/or ordinance should require minimization of impervious surfaces and use of permeable surfaces, and should require that development replicate pre-construction runoff patterns by using source controls, etc.

Such regulations and/or ordinance needs to be coordinated with the land use development and permit procedures existing for site plans, special use permits and subdivisions. Any such regulations and/or ordinance should prohibit the use and access of heavy equipment over areas of intended stormwater infiltration, require oil/water separator devices, and other treatment measures to ensure water quality during construction and thereafter.

Development should avoid surface water resources, and increased stormwater runoff should be abated through on-site controls and treatment measures. Measures which attain a zero net increase in off-site stormwater runoff rate should also be required and maintenance of water quality measure within such facilities should be strictly enforced. Also, increased protections to receiving waters such as wetlands and watercourses should be considered to ensure the maintenance of high water quality.

Analysis of the Town's existing watersheds should be conducted to assist in developing stormwater-related requirements, to identify and establish Drainage Districts, and to generally facilitate planning of watershed-related protection efforts.

★ *BioDiversity*

A Biodiversity Plan including an official map utilizing aerial photography and geographic information system's capabilities to locate forests, fields, prime agricultural soils, active farms, wetlands, watercourses, open space and the location of the Wallkill River's habitats should be developed, in order to assist in protection and preservation of these resources for future generations.

An inventory of environmentally sensitive areas (i.e., wetlands, steep slopes, unique and rare wildlife habitat, etc) should also be conducted and related regulations established to avoid, restrict and/or control appropriate development therein. Such studies should also be required as part of the land use development (i.e., site plan, special use permit, and subdivision) permit review process.

It is important to understand that if individuals of a wildlife species are isolated into small pockets by subdivision then these species can no longer reproduce and will die out throughout the town. The stream corridors should be left open whenever possible, to connect the towns' wetlands together and to the Wallkill River, so as to preserve the towns' wildlife populations. ***Refer to the Surface Water and Wetlands Map above.***

☆ ***Trails and Greenway System***

The establishment or expansion of current achievements along the alignment of the Wallkill River as a designated "Greenway" and perhaps as a "Critical Environmental Area" (CEA) might be considered. Also, the development of a publically accessible foot path along the reach of the Wallkill River, connecting with the Villages of Walden and Montgomery and providing access between public recreation facilities and passive open space lands is recommended. A town trail/greenway system should also consider opportunities to involve other waterways of local importance, such as the Tin Brook. Increased opportunities for water related recreational access and facilities is also recommended.

Limited regulations exist protecting or requiring the preservation of existing trails and for the establishment of new trails and trail connections. Such measures are recommended and strongly encouraged to promote the acquisition of easements for trails through subdivision properties, and to preserve existing and provide for future connections to adjacent trails and open space areas. The identification of significant trails and increased provisions to require the preservation of trails and trail connections is seen as a cornerstone of an overall greenway plan for the Town, particularly relating to the Wallkill River corridor. The preservation of trails and greenways without public access connecting resource areas is paramount failing of any such plan.

Also, identify scenic byways for nomination to ensure and enhance scenic vistas. Scenic byway designation also provides improved access to transportation related funding to assist in the upgrade of roadways consistent with the scenic byway designation.

☆ *Historic and Cultural Resources*

Cemeteries within the Town function as historic and scenic resources and need to be protected by inclusion in the Town's local register, as may be appropriate. A Cemetery Preservation Law needs to be considered. The Town needs to conduct a scenic resources survey to identify other non-land resources that may need protection from development or otherwise, such as critical scenic viewsheds. Identification and mapping of archeological resources need to be completed. Historic artifacts donated to or in possession now and in the future of the town should be properly archived, preserved, displayed and stored.

Continued attention to nomination of eligible Town properties to the State and Federal registers is recommended, particularly for historic farmsteads such as the Benedict Farm, for which an application has not yet been submitted, but should be considered.

Regulations should be developed that require increased coordination and dialogue during Town development application review process with the Historic Preservation Commission and the Town Historian. In instances when an archeological and/or cultural analysis is completed, such regulations should require that the Town Historian/Historic Preservation Commission are provided with a copy and related correspondence. In addition, increased communication with the State Office of Parks, Recreation and Historic Preservation needs to be required of developers.

In addition to the above, consideration needs to be given to preservation or protection of historic, archeological and cultural resources during the development review process (e.g., preservation of stonewalls, large trees [12"+ diameter at breast height], establishment of easements protecting sensitive areas, etc).

